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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

HAWX SERVICES, LLC, a Utah
limited liability company,

Plaintiff,

v.

AXIS PEST HOLDINGS, LLC, a Utah
limited liability company, AXIS PEST
SOLUTIONS, LLC, a Nevada limited
liability company, MICHAEL PETRI,
and individual, and COLTON
COTTRELL, an individual.

Defendants.

ANSWER OF COLTON COTTRELL

CASE NO: 1:21-cv-00088-HCN

The Honorable Judge Howard C.
Nielsen, Jr.

Defendant Colton Cottrell (“Mr. Cottrell”) hereby answers the Complaint of Hawx
Services, LLC (“Hawx” or “Plaintiff”) as follows:

1. Mr. Cottrell denies the allegations contained in paragraph 1 of the Complaint for
lack of sufficient knowledge or information.

2. Mr. Cottrell denies the allegations contained in paragraph 2 of the Complaint for

lack of sufficient knowledge or information.

3. Mr. Cottrell denies the allegations contained in paragraph 3 of the Complaint for lack of sufficient knowledge or information.

4. Mr. Cottrell denies the allegations contained in paragraph 4 of the Complaint for lack of sufficient knowledge or information.

5. Mr. Cottrell denies the allegations contained in paragraph 5 of the Complaint.

JURISDICTION AND VENUE

6. Paragraph 6 of the complaint includes a legal conclusion to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 6 of the Complaint for lack of sufficient knowledge or information.

7. Paragraph 7 of the complaint includes a legal conclusion to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 7 of the Complaint for lack of sufficient knowledge or information.

GENERAL ALLEGATIONS

Hawx's Business

8. Mr. Cottrell denies the allegations contained in paragraph 8 of the Complaint for lack of sufficient knowledge or information.

9. Mr. Cottrell admits the allegations contained in paragraph 9 of the Complaint upon information and belief.

10. Mr. Cottrell denies the allegations contained in paragraph 10 of the Complaint for lack of sufficient knowledge or information.

11. Mr. Cottrell denies the allegations contained in paragraph 11 of the Complaint for

lack of sufficient knowledge or information.

12. Mr. Cottrell denies the allegations contained in paragraph 12 of the Complaint for lack of sufficient knowledge or information.

Petri's Contract with Hawx

13. Mr. Cottrell admits that Petri sold pest control services for Hawx prior to 2020, on information and belief. Mr. Cottrell denies the remaining allegations contained in paragraph 13 of the Complaint for lack of sufficient knowledge or information.

14. Mr. Cottrell denies the allegations contained in paragraph 14 of the Complaint for lack of sufficient knowledge or information.

15. Paragraph 15 of the complaint includes a legal conclusion to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 15 of the Complaint for lack of sufficient knowledge or information.

16. Mr. Cottrell denies the allegations contained in paragraph 16 of the Complaint for lack of sufficient knowledge or information.

17. Mr. Cottrell denies the allegations contained in paragraph 17 of the Complaint for lack of sufficient knowledge or information.

18. Mr. Cottrell denies the allegations contained in paragraph 18 of the Complaint for lack of sufficient knowledge or information.

19. Mr. Cottrell denies the allegations contained in paragraph 19 of the Complaint for lack of sufficient knowledge or information.

Petri Breaches Agreement

20. Mr. Cottrell denies the allegations contained in paragraph 20 of the Complaint for

lack of sufficient knowledge or information.

21. Mr. Cottrell denies the allegations contained in paragraph 21 of the Complaint for lack of sufficient knowledge or information.

22. Mr. Cottrell denies the allegations contained in paragraph 22 of the Complaint for lack of sufficient knowledge or information.

23. Mr. Cottrell denies the allegations contained in paragraph 23 of the Complaint for lack of sufficient knowledge or information.

24. Mr. Cottrell denies the allegations contained in paragraph 24 of the Complaint for lack of sufficient knowledge or information.

25. Mr. Cottrell denies the allegations contained in paragraph 25 of the Complaint for lack of sufficient knowledge or information.

26. Mr. Cottrell denies the allegations contained in paragraph 26 of the Complaint for lack of sufficient knowledge or information.

27. Mr. Cottrell denies the allegations contained in paragraph 27 of the Complaint for lack of sufficient knowledge or information.

28. Mr. Cottrell admits the allegations contained in paragraph 28 of the Complaint.

Cottrell's Contract with Hawx

29. Mr. Cottrell denies the allegations contained in paragraph 29 of the Complaint and affirmatively avers that he did not execute any such agreement.

30. Mr. Cottrell denies the allegations contained in paragraph 30 of the Complaint and affirmatively avers that he did not execute any such agreement.

31. Mr. Cottrell denies the allegations contained in paragraph 31 of the Complaint

and affirmatively avers that he did not execute any such agreement.

32. Mr. Cottrell denies the allegations contained in paragraph 32 of the Complaint and affirmatively avers that he did not execute any such agreement.

33. Mr. Cottrell denies the allegations contained in paragraph 33 of the Complaint and affirmatively avers that he did not execute any such agreement.

34. Mr. Cottrell denies the allegations contained in paragraph 34 of the Complaint and affirmatively avers that he did not execute any such agreement.

Cottrell Breaches Agreement

35. Mr. Cottrell admits the allegations contained in paragraph 35 of the Complaint.

36. Mr. Cottrell admits the allegations contained in paragraph 36 of the Complaint.

37. Mr. Cottrell is uncertain what paragraph 37 of the Complaint intends by the phrase “same market” and therefore denies the same for lack of sufficient knowledge or information.

38. Mr. Cottrell denies the allegations of paragraph 38 of the Complaint.

39. Mr. Cottrell denies the allegations of paragraph 39 of the Complaint.

40. Mr. Cottrell denies the allegations of paragraph 40 of the Complaint.

Axis' Business

41. Mr. Cottrell admits that Axis sales pest control services door-to-door and denies the remaining allegations of paragraph 41 of the Complaint for lack of sufficient knowledge or information.

42. Mr. Cottrell denies the allegations contained in paragraph 42 of the Complaint for

lack of sufficient knowledge or information.

43. Mr. Cottrell denies the allegations contained in paragraph 43 of the Complaint for lack of sufficient knowledge or information.

44. Mr. Cottrell denies the allegations contained in paragraph 44 of the Complaint for lack of sufficient knowledge or information.

45. Mr. Cottrell denies the allegations contained in paragraph 45 of the Complaint for lack of sufficient knowledge or information.

46. Mr. Cottrell denies the allegations contained in paragraph 46 of the Complaint for lack of sufficient knowledge or information.

47. Mr. Cottrell denies the allegations contained in paragraph 47 of the Complaint for lack of sufficient knowledge or information.

48. Mr. Cottrell denies the allegations contained in paragraph 48 of the Complaint for lack of sufficient knowledge or information.

49. Mr. Cottrell denies the allegations contained in paragraph 49 of the Complaint for lack of sufficient knowledge or information.

50. Mr. Cottrell denies the allegations contained in paragraph 50 of the Complaint for lack of sufficient knowledge or information.

51. Mr. Cottrell denies the allegations contained in paragraph 51 of the Complaint for lack of sufficient knowledge or information.

52. Mr. Cottrell denies the allegations contained in paragraph 52 of the Complaint for lack of sufficient knowledge or information.

53. Mr. Cottrell denies the allegations contained in paragraph 53, including all

subparts thereto, of the Complaint for lack of sufficient knowledge or information.

54. Mr. Cottrell denies the allegations contained in paragraph 54 of the Complaint for lack of sufficient knowledge or information.

55. As it pertains to Mr. Cottrell (per the inclusive reference to “Defendants”), Mr. Cottrell denies the allegations of paragraph 55 of the Complaint and denies any remaining allegations for lack of sufficient knowledge or information.

56. As it pertains to Mr. Cottrell (per the inclusive reference to “individuals” and “sales representative agents”), Mr. Cottrell denies the allegations of paragraph 56 of the Complaint and denies any remaining allegations for lack of sufficient knowledge or information.

57. Mr. Cottrell denies the allegations contained in paragraph 57 of the Complaint for lack of sufficient knowledge or information.

Axis and Petri Trained Their Sales Representatives to Use False and Deceptive Sales

58. As it pertains to Mr. Cottrell, Mr. Cottrell denies the allegations of paragraph 58 of the Complaint and denies any remaining allegations for lack of sufficient knowledge or information.

59. Mr. Cottrell denies the allegations contained in paragraph 59 of the Complaint for lack of sufficient knowledge or information.

60. Mr. Cottrell denies the allegations contained in paragraph 60 of the Complaint for lack of sufficient knowledge or information.

61. Mr. Cottrell denies the allegations contained in paragraph 61 of the Complaint for lack of sufficient knowledge or information.

62. Mr. Cottrell denies the allegations contained in paragraph 62 of the Complaint for

lack of sufficient knowledge or information.

Specific Instances of Misrepresentations by Axis Through Petri and Others

63. Mr. Cottrell denies the allegations contained in paragraph 63 of the Complaint for lack of sufficient knowledge or information.

64. Mr. Cottrell denies the allegations contained in paragraph 57 of the Complaint for lack of sufficient knowledge or information.

65. Mr. Cottrell denies the allegations contained in paragraph 65 of the Complaint for lack of sufficient knowledge or information.

66. Mr. Cottrell denies the allegations contained in paragraph 66 of the Complaint for lack of sufficient knowledge or information.

67. Mr. Cottrell denies the allegations contained in paragraph 67 of the Complaint for lack of sufficient knowledge or information.

68. Mr. Cottrell denies the allegations contained in paragraph 68 of the Complaint for lack of sufficient knowledge or information.

69. Mr. Cottrell denies the allegations contained in paragraph 69 of the Complaint for lack of sufficient knowledge or information.

70. Mr. Cottrell denies the allegations contained in paragraph 70 of the Complaint for lack of sufficient knowledge or information.

71. Mr. Cottrell denies the allegations contained in paragraph 71 of the Complaint for lack of sufficient knowledge or information.

72. Mr. Cottrell denies the allegations contained in paragraph 72 of the Complaint for

lack of sufficient knowledge or information.

**FIRST CAUSE OF ACTION
(Breach of Contract Against Petri)**

73. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs of the Complaint as though fully set forth herein.

74. The allegations of paragraph 74 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 74 of the Complaint for lack of sufficient knowledge or information.

75. The allegations of paragraph 75 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 75 of the Complaint for lack of sufficient knowledge or information.

76. The allegations of paragraph 76 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 76 of the Complaint for lack of sufficient knowledge or information.

77. The allegations of paragraph 77 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 77 of the Complaint for lack of sufficient knowledge or information.

78. The allegations of paragraph 78 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is

required, Mr. Cottrell denies the allegations contained in paragraph 78 of the Complaint for lack of sufficient knowledge or information.

79. The allegations of paragraph 79 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 79 of the Complaint for lack of sufficient knowledge or information.

80. The allegations of paragraph 80 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 80 of the Complaint for lack of sufficient knowledge or information.

81. The allegations of paragraph 81 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 81 of the Complaint for lack of sufficient knowledge or information.

**SECOND CAUSE OF ACTION
(Breach of Contract Against Cottrell)**

82. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs

of the Complaint as though fully set forth herein.

83. Mr. Cottrell denies the allegations contained in paragraph 83 of the Complaint.

84. Mr. Cottrell denies the allegations contained in paragraph 84 of the Complaint.

85. Mr. Cottrell denies the allegations contained in paragraph 85 of the Complaint.

86. Mr. Cottrell denies the allegations contained in paragraph 86 of the Complaint.

87. Mr. Cottrell denies the allegations contained in paragraph 87 of the Complaint.

88. Mr. Cottrell denies the allegations contained in paragraph 88 of the Complaint.

89. Mr. Cottrell denies the allegations contained in paragraph 89 of the Complaint.

THIRD CAUSE OF ACTION

(Tortious Interference with Contractual Relations Against Petri and Axis)

90. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs of the Complaint as though fully set forth herein.

91. The allegations of paragraph 91 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 91 of the Complaint for lack of sufficient knowledge or information.

92. The allegations of paragraph 92 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 92 of the Complaint for lack of sufficient knowledge or information.

93. The allegations of paragraph 93 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 93 of the Complaint for lack

of sufficient knowledge or information.

94. The allegations of paragraph 94 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 94 of the Complaint for lack of sufficient knowledge or information.

95. The allegations of paragraph 95 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 95 of the Complaint for lack of sufficient knowledge or information.

96. The allegations of paragraph 96 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 96 of the Complaint for lack of sufficient knowledge or information.

97. The allegations of paragraph 97 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 97 of the Complaint for lack of sufficient knowledge or information.

98. The allegations of paragraph 98 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 98 of the Complaint for lack

of sufficient knowledge or information.

FOURTH CAUSE OF ACTION
(Tortious Interference with Economic Relations Against Petri and Axis)

99. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs of the Complaint as though fully set forth herein.

100. The allegations of paragraph 100 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 100 of the Complaint for lack of sufficient knowledge or information.

101. The allegations of paragraph 101 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 101 of the Complaint for lack of sufficient knowledge or information.

102. The allegations of paragraph 102 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 102 of the Complaint for lack of sufficient knowledge or information.

103. The allegations of paragraph 103 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 103 of the Complaint for lack of sufficient knowledge or information.

104. The allegations of paragraph 104 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is

required, Mr. Cottrell denies the allegations contained in paragraph 104 of the Complaint for lack of sufficient knowledge or information.

105. The allegations of paragraph 105 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 105 of the Complaint for lack of sufficient knowledge or information.

106. The allegations of paragraph 106 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 106 of the Complaint for lack of sufficient knowledge or information.

FIFTH CAUSE OF ACTION
(Unfair Competition under the Lanham Act, 15 U.S.C. § 1125(a)(1)(A), (B)
Against Petri and Axis)

107. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs of the Complaint as though fully set forth herein.

108. The allegations of paragraph 108 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 108 of the Complaint for lack of sufficient knowledge or information.

109. The allegations of paragraph 109 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 109 of the Complaint for lack

of sufficient knowledge or information.

110. The allegations of paragraph 110 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 110 of the Complaint for lack of sufficient knowledge or information.

111. The allegations of paragraph 111 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 111 of the Complaint for lack of sufficient knowledge or information.

112. The allegations of paragraph 111 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 111 of the Complaint for lack of sufficient knowledge or information.

113. The allegations of paragraph 113 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 113 of the Complaint for lack of sufficient knowledge or information.

114. The allegations of paragraph 114 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 114 of the Complaint for lack of sufficient knowledge or information.

115. The allegations of paragraph 115 of the Complaint state allegations against other

defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 115 of the Complaint for lack of sufficient knowledge or information.

**SIXTH CAUSE OF ACTION
(Trade Slander/ Defamation Against Petri and Axis)**

116. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs of the Complaint as though fully set forth herein.

117. The allegations of paragraph 117 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 117 of the Complaint for lack of sufficient knowledge or information.

118. The allegations of paragraph 118 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 118 of the Complaint for lack of sufficient knowledge or information.

119. The allegations of paragraph 119 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 119 of the Complaint for lack of sufficient knowledge or information.

120. The allegations of paragraph 120 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 120 of the Complaint for lack

of sufficient knowledge or information.

121. The allegations of paragraph 121 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 121 of the Complaint for lack of sufficient knowledge or information.

122. The allegations of paragraph 122 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 122 of the Complaint for lack of sufficient knowledge or information.

SEVENTH CAUSE OF ACTION
(Unfair Trade Practices- N.C.G.S. § 75-1.1 *et seq.* against Petri and Axis)

123. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs of the Complaint as though fully set forth herein.

124. The allegations of paragraph 124 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 124 of the Complaint for lack of sufficient knowledge or information.

125. The allegations of paragraph 125 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 125 of the Complaint for lack of sufficient knowledge or information.

126. The allegations of paragraph 126 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is

required, Mr. Cottrell denies the allegations contained in paragraph 126 of the Complaint for lack of sufficient knowledge or information.

127. The allegations of paragraph 127 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 127 of the Complaint for lack of sufficient knowledge or information.

128. The allegations of paragraph 128 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 128 of the Complaint for lack of sufficient knowledge or information.

129. The allegations of paragraph 129 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 129 of the Complaint for lack of sufficient knowledge or information.

130. The allegations of paragraph 130 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 130 of the Complaint for lack of sufficient knowledge or information.

131. The allegations of paragraph 131 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 131 of the Complaint for lack

of sufficient knowledge or information.

FIFTH CAUSE OF ACTION
(Unfair Competition- Utah Common Law against Petri and Axis)

132. Mr. Cottrell incorporates and re-alleges his responses to all previous paragraphs of the Complaint as though fully set forth herein.

133. The allegations of paragraph 133 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 133 of the Complaint for lack of sufficient knowledge or information.

134. The allegations of paragraph 134 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 134 of the Complaint for lack of sufficient knowledge or information.

135. The allegations of paragraph 135 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 135 of the Complaint for lack of sufficient knowledge or information.

136. The allegations of paragraph 136 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 136 of the Complaint for lack of sufficient knowledge or information.

137. The allegations of paragraph 137 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is

required, Mr. Cottrell denies the allegations contained in paragraph 137 of the Complaint for lack of sufficient knowledge or information.

138. The allegations of paragraph 138 of the Complaint state allegations against other defendants and legal assertions to which no response is required. To the extent that a response is required, Mr. Cottrell denies the allegations contained in paragraph 138 of the Complaint for lack of sufficient knowledge or information.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim against Mr. Cottrell upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's Complaint may be barred, in whole or in part, by the equitable doctrines of estoppel, quasi-estoppel and waiver.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's Complaint may be barred, in whole or in part, by the doctrine of unclean hands and inequitable conduct.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in party, due to Plaintiff's failure to mitigate any proven damages.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims may be barred, in whole or in party, by the applicable statutes of limitations.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims should be barred or reduced to the extent the damages alleged by Plaintiff were caused by acts or omissions of Plaintiff or persons other than Mr. Cottrell.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by the absence of an enforceable contract.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because its alleged damages are speculative and inherently uncertain. .

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Mr. Cottrell are barred pursuant to Utah's Statute of Frauds, including Utah Code Ann. § 25-5-4 and, without limitation, its provisions voiding any agreement that is not in writing and signed by the party to be charged with the agreement which by its terms is not to be performed within one year of the making of the agreement. Where Plaintiff alleges that Mr. Cottrell agreed to be bound for a period of three years by the alleged "Cottrell Agreement," such agreement is subject to the statute and void absent the required, signed, writing.

TENTH AFFIRMATIVE DEFENSE

Pursuant to DUCivR 9-1, Mr. Cottrell states that he does not presently intend to allocate fault to a non-party, but may provide a supplemental notice of its intent to allocate fault to a non-party should Mr. Cottrell discover a factual or legal basis to do so, pursuant to DUCivR 9-1(b).

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff is barred from pursuing its claims in the U.S. District Court for the District of Uta because venue is improper.

RESERVATION OF RIGHTS

Mr. Cottrell reserves the right, after discovery, to amend this Answer to add additional affirmative defenses supported by the facts, and a failure to include all such defenses in this Answer shall not be deemed a waiver of any right to further amend this Answer.

RELIANCE UPON DEMAND FOR JURY TRIAL

Mr. Cottrell demands a trial by jury on all issues so triable and relies upon the jury demand first made by Defendant Axis.

PRAYER

WHEREFORE, Mr. Cottrell prays for judgment as follows:

1. That Plaintiff take nothing by way of its Complaint from Mr. Cottrell;
2. That the Complaint be dismissed against Mr. Cottrell with prejudice;
3. That Mr. Cottrell be awarded his costs, including attorneys' fees, in defending this action; and
4. For such other and further relief that the Court deems just and proper.

DATED this 15th day of November 2021.

**SCALLEY READING BATES
HANSEN & RASMUSSEN, P.C**

/s/ Bradley W. Madsen
Bradley W. Madsen
Attorneys for Colton Cottrell

CERTIFICATE OF SERVICE

The undersigned hereby verifies that the foregoing document was served on the 15th of November 2021, upon all parties of record via e-filing:

/s/ Bradley W. Madsen